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8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**
12

13 SVB FINANCIAL GROUP,
14 Plaintiff,
15 v.
16 FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver for
17 Silicon Valley Bank and Silicon
Valley Bridge Bank, N.A.,
18 Defendant.
19

Case No.: 5:24-cv-01321-BLF

**PLAINTIFF SVB FINANCIAL GROUP'S
ADMINISTRATIVE MOTION
TO EXTEND BRIEFING SCHEDULE
AND TO CONTINUE HEARING ON
DEFENDANT FDIC-R'S MOTION TO
DISMISS**

Pursuant to Civil Local Rule 7-11 and the Court's Standing Order re Civil Cases No. IV.B, Plaintiff SVB Financial Group ("SVBFG") submits this Administrative Motion to Extend Briefing Schedule and to Continue Hearing on Defendant the Federal Deposit Insurance Corporation, as Receiver for Silicon Valley Bank ("FDIC-R1") and Silicon Valley Bridge Bank, N.A. ("FDIC-R2") (together with FDIC-R1, "FDIC-R"), motion to dismiss counts I, II, III, V, VI, VII, and VIII of SVBFG's complaint (Dkt. No. 33) (the "Motion to Dismiss").

Due to a pre-existing conflict by SVBFG's lead counsel, Robert A. Sacks, SVBFG respectfully requests that the Court (1) continue the hearing on the Motion to Dismiss from September 5, 2024 to October 10, 2024 and (2) reset the current briefing deadlines on FDIC-R's Motion to Dismiss, so that SVBFG's opposition brief is due on August 12, 2024 (instead of the current deadline of May 24, 2024) and FDIC-R's reply brief is due on September 26, 2024 (instead of the current deadline of May 31, 2024). Alternatively, if the Court does not agree to continue the hearing date on the Motion to Dismiss, SVBFG respectfully requests that the current briefing schedule be reset so that SVBFG's opposition brief is due on July 18, 2024 (instead of the current deadline of May 24, 2024) and FDIC-R's reply brief is due on August 22, 2024 (instead of the current deadline of May 31, 2024).

BACKGROUND

On May 10, 2024, FDIC-R filed its Motion to Dismiss, which the Court set for hearing on September 5, 2024. Currently, SVBFG's opposition is due on May 24, 2024 and FDIC-R's reply is due on May 31, 2024. SVBFG's lead counsel, Robert A. Sacks, currently has a pre-existing conflict with the scheduled hearing date on September 5, 2024. (Declaration of Robert A. Sacks ("Sacks Decl.") ¶ 2.) On May 13, 2024, pursuant to the Court's Standing Order II, counsel for SVBFG emailed the Courtroom Deputy to request alternative hearing dates in September or October and was told that the Court's next available hearing date was September 26, 2024 at 9:00 a.m. (Sacks Decl. Ex. A.) On May 22, 2024, counsel for SVBFG emailed the Courtroom Deputy again to confirm the Court's availability on September 26, 2024 and was informed that the next available hearing date was now October 10, 2024. (*Id.*)

1 The parties have not requested any prior extensions of the schedule in this action
 2 and the requested changes to the hearing date on FDIC-R's Motion to Dismiss and to the briefing
 3 schedule will not affect any other dates that have been set by the Court.

4 FDIC-R does not oppose the proposed schedule or hearing date requested in the
 5 Administrative Motion and has so stipulated with SVBFG pursuant to Local Rule 7-11(a) and 7-
 6 12.

7 ARGUMENT

8 The Court has broad discretion to enlarge time limits and set hearing dates on
 9 motions. *See Plumbers & Pipefitters Loc. 572 Pension Fund v. Cisco Sys., Inc.*, No. C01-
 10 20418JW, 2005 WL 1459555, at *3 (N.D. Cal. June 21, 2005). “[R]equests for extensions of time
 11 made before the applicable deadline has passed should ‘normally . . . be granted in the absence of
 12 bad faith on the part of the party seeking relief or prejudice to the adverse party.’” *Ahanchian v.*
 13 *Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010). Here, (1) there is good cause to
 14 continue the hearing on FDIC-R's Motion to Dismiss to the Court's next available hearing date —
 15 from September 5, 2024 to October 10, 2024 — to allow SVBFG's lead counsel to participate; (2)
 16 the proposed continued hearing date and briefing schedule will not affect any other deadlines set
 17 by the Court; and (3) the proposed briefing schedule (and the alternative briefing schedule)
 18 comports with the Court's Standing Order re Civil Cases No. IV.B, which requires that any reply
 19 brief be filed no fewer than 14 days before the hearing.

20 Accordingly, for the foregoing reasons, SVBFG respectfully requests that the Court
 21 enter an order resetting the briefing schedule on FDIC-R's Motion to Dismiss and continuing the
 22 hearing on the Motion to Dismiss, from September 5, 2024 to October 10, 2024, or to the Court's
 23 next available hearing date, as follows:

- 24 1. SVBFG's opposition to FDIC-R's Motion to Dismiss shall be due on August
 25 12, 2024;
- 26 2. FDIC-R's reply in support of its Motion to Dismiss shall be due on September
 27 26, 2024;

1 3. The hearing on FDIC-R's Motion to Dismiss shall be continued from
2 September 5, 2024 to October 10, 2024 at 9:00 a.m., or to the Court's next
3 available hearing date thereafter;

4 4. **Alternatively**, if the Court does not agree to continue the hearing on the Motion
5 to Dismiss, SVBFG's opposition to FDIC-R's Motion to Dismiss shall be due
6 on July 18, 2024 and FDIC-R's reply in support of its Motion to Dismiss shall
7 be due on August 22, 2024.

8 Dated: May 23, 2024

Respectfully submitted,

9 /s/ Robert A. Sacks

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